

## EN BANC

**[ A.M. No. CA-10-49-J [Formerly A.M. OCA IPI No. 08-142-CA-J], January 28, 2010 ]**

**RAMON C. GONZALES, COMPLAINANT, VS. COURT OF APPEALS  
ASSOCIATE JUSTICE AMELITA G. TOLENTINO, RESPONDENT.**

### D E C I S I O N

#### **CARPIO MORALES, J.:**

The facts that spawned the filing of the present administrative case are as follows:

Ramon C. Gonzales (complainant), then a member of Alabang Country Club, Incorporated (ACCI) who was vying for a seat in its Board of Directors (the Board), was charged by the Board with having falsified proxy forms for the 2004 election of Board members. That drew him to file a complaint before the Regional Trial Court (RTC) of Muntinlupa City, docketed as Civil Case No. 04-122, *Ramon C. Gonzalez v. Alabang Country Club, Inc.*, for damages (the civil case).

Complainant was later disqualified as a candidate and ousted as a member of the ACCI. He thus amended his complaint in the civil case by impleading the members of the Board at the time material to his expulsion, the newly elected members, and the members of the Nomination and Election Committee. And he added, as cause of action, the nullification of his disqualification and expulsion in the reliefs prayed for.

Branch 256 of the Muntinlupa RTC decided the civil case in complainant's favor, and issued a writ of execution allowing him to resume his rights as a member of ACCI.

The defendants in the civil case assailed the trial court's decision before the Court of Appeals via petition for review with application for temporary restraining order (TRO) and/or writ of preliminary injunction, docketed as CA-G.R. SP. No. 89358.<sup>[1]</sup> This case was consolidated with related cases in which herein complainant was the respondent.

It is gathered that the appellate court issued on April 29, 2005 a temporary restraining order (TRO) against the execution of the decision in the civil case, drawing complainant to move for its lifting, alleging that ACCI had already voluntarily executed the decision in the civil case. His motion was, however, denied.

When the TRO expired, the Ninth Division of the Court of Appeals composed of Associate Justices Roberto A. Barrios, Vicente S.E. Veloso, and Justice Amelita Tolentino as *ponente* directed the issuance of a Writ of Preliminary Injunction as in fact one was issued on July 11, 2005.<sup>[2]</sup>

Complainant challenged the appellate court's issuance of the writ of preliminary injunction via petition for certiorari filed before this Court on September 8, 2005.<sup>[3]</sup>

In the meantime, complainant, through counsel, filed on September 29, 2005 before the appellate court a Motion for Inhibition of respondent because, by his claim, the issuance of the writ was against the law.

By Resolution of April 11, 2007, the Court dismissed complainant's petition for certiorari<sup>[4]</sup> "for failure to sufficiently show that the questioned [appellate court's] Resolution is tainted with grave abuse of discretion."

More than a year later or on August 20, 2008, complainant filed a letter-complaint before this Court, alleging as follows:

On September 29, 2005, or almost three (3) years ago to date, I asked my lawyer to file a Motion for Inhibition against the ponente, Justice Amelita G. Tolentino because the issuance of the injunction was obviously against the law. Up to the present, the [motion for] inhibition has not been acted upon.

I also understand that cases involving intra-corporate controversy must be resolved as soon as possible because of [their] nature. The affairs of corporations cannot be suspended or left undecided longer than is necessary. In my case, I ran x x x for the term June 2004-June 2006 and a decision was rendered on April 4, 2005. The decision was raised to the Court of Appeals in May 2005. At that time, if the Decision was not restrained, or the case acted upon quickly as should have been the case, there was still an opportunity for me to have been duly elected and to have served as director. Because of the inaction of Justice Tolentino which is against the rule governing intra-corporate dispute, this opportunity was forever lost to me.

As can be seen in the Resolutions issued in the cases, they were also furnished to a certain Atty. Felisberto Verano [Atty. Verano] who is not even a counsel of record in the case nor has he entered formally his appearance. Atty. Verano is the brother of then Congresswoman Lorna Verano-Yap of Parañaque and she was instrumental in having Justice Tolentino appointed to her present post. In fact, the Writ of Preliminary Injunction was even addressed to Atty. Verano and not to any of the two (2) counsels of record for the Club. This is highly suspicious and anomalous. x x x

x x x I am bringing this matter to your attention because I have reason to believe that Justice Tolentino is not innocent when she granted the Writ of Injunction and totally failed to act on the petitions. This is a favor to Atty. Verano to whose sister Justice Tolentino owes a debt of gratitude for her position.

In view of the scandal now besetting the Court of Appeals, and recalling the removal of another associate justice last year, the taint of dishonesty and corruption may not be isolated, and in this case, the questionable inclusion of Atty. Verano should be immediately investigated, especially when there exists a link between Justice Tolentino and the Veranos. The

inclusion of his name may be there to remind Justice Tolentino about his interest in the case.<sup>[5]</sup> (underscoring supplied)

In a parallel move, complainant filed on August 21, 2008 before the appellate court an Urgent Verified Motion Reiterating Motion for Inhibition (of *Ponente*-herein respondent Justice Amelita G. Tolentino).<sup>[6]</sup>

This Court referred the letter-complaint to Court of Appeals Presiding Justice Conrado V. Vasquez for appropriate action.<sup>[7]</sup>

By Order of October 8, 2008, respondent inhibited herself from CA-G.R. SP No. 89788.<sup>[8]</sup> On October 14, 2008, she filed her Comment<sup>[9]</sup> on the letter-complaint. She claimed that there was nothing anomalous in furnishing Atty. Verano with a copy of the resolutions of the Court of Appeals, since he signed as collaborating counsel in the petition in CA-G.R. SP No. 89788. She added that she did not know Atty. Verano and "former Parañaque Congresswoman Lorna Verano Yap" (Lorna) who she claimed was never a congresswoman of Parañaque.

Respecting the delay in resolving the Motion for Inhibition, respondent claimed that in view of complainant's filing (on September 8, 2005) of the petition for certiorari before this Court, she deemed it appropriate to defer any action on the motion (which was filed on September 29, 2005) in deference to the authority of this Court to resolve the issues raised before it.<sup>[10]</sup>

In his letter-reply,<sup>[11]</sup> complainant stated that Atty. Verano signed no pleading other than the petition for review in CA-G.R. SP No. 89358.

In sum, the present administrative case complains against 1) the issuance of a Writ of Preliminary Injunction, 2) the delay in the resolution by respondent of the Motion for Inhibition, 3) the furnishing of copies of Resolutions of the appellate court to Atty. Verano, and 4) the delay in the resolution by respondent of the cases on the merits.

Since the Court has, as reflected above, found in herein complainant's petition for certiorari that the issuance by the appellate court of a writ of preliminary injunction was not attended with grave abuse of discretion, the Court shall dwell on the other specified complaints against respondent.

The records show that indeed Atty. Verano signed the Petition for Review in CA-G.R. SP No. 89358 as collaborating counsel.<sup>[12]</sup> He was, therefore, entitled to receive a copy of the appellate court's resolutions including that which directed the issuance of a writ of preliminary injunction. In any event, the order to issue the writ of preliminary injunction was the collective act of the members of the Ninth Division of the Court. *Bautista v. Abdulwahid* enlightens:<sup>[13]</sup>

x x x The Court of Appeals is a collegiate court whose members reach their conclusions in consultation and accordingly render their collective judgment after due deliberation. Thus, we have held that a charge of violation of the Anti-Graft and Corrupt Practices Act on the ground that a